

IN THE COURT OF APPEALS OF THE STATE OF IDAHO

Docket No. 35910

STATE OF IDAHO,)	2009 Unpublished Opinion No. 529
)	
Plaintiff-Respondent,)	Filed: July 16, 2009
)	
v.)	Stephen W. Kenyon, Clerk
)	
LEVI HAWKINS,)	THIS IS AN UNPUBLISHED
)	OPINION AND SHALL NOT
Defendant-Appellant.)	BE CITED AS AUTHORITY
)	

Appeal from the District Court of the Fifth Judicial District, State of Idaho, Twin Falls County. Hon. G. Richard Bevan, District Judge.

Order denying I.C.R. 35 motion for reduction of sentence, affirmed.

Molly J. Huskey, State Appellate Public Defender; Jason C. Pintler, Deputy Appellate Public Defender, Boise, for appellant.

Hon. Lawrence G. Wasden, Attorney General; Lori A. Fleming, Deputy Attorney General, Boise, for respondent.

Before LANSING, Chief Judge, PERRY, Judge
and GUTIERREZ, Judge

PER CURIAM

Levi Hawkins pled guilty to aggravated assault. I.C. § 18-901(b), 18-905(a). The district court sentenced Hawkins to a unified term of five years, with a minimum period of confinement of two years. However, the district court retained jurisdiction and sent Hawkins to participate in the rider program. Thereafter, the district court relinquished jurisdiction. Hawkins filed an I.C.R. 35 motion, which the district court denied. Hawkins appeals.

A motion for reduction of sentence under I.C.R. 35 is essentially a plea for leniency, addressed to the sound discretion of the court. *State v. Knighton*, 143 Idaho 318, 319, 144 P.3d 23, 24 (2006); *State v. Allbee*, 115 Idaho 845, 846, 771 P.2d 66, 67 (Ct. App. 1989). In presenting a Rule 35 motion, the defendant must show that the sentence is excessive in light of new or additional information subsequently provided to the district court in support of the

motion. *State v. Huffman*, 144 Idaho 201, 203, 159 P.3d 838, 840 (2007). Upon review of the record, including the new information submitted with Hawkins's Rule 35 motion, we conclude no abuse of discretion has been shown. Therefore, the district court's order denying Hawkins's Rule 35 motion is affirmed.